

# Appendix F

Transcript of  
April 12, 2006  
Testimony Hearing  
before the Water Board

1 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
2 OAKLAND, CALIFORNIA

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8 PROCEEDINGS FOR  
9 April 12, 2006  
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1 CHAIRMAN MULLER: Moving on to Item 7, and 7 and 8 are  
2 fairly close, right?

3  
4 MR. WOLFE: Right. Items 7 and 8 are distinct but  
5 nonetheless similar than they are -- this is the first  
6 hearing for the proposed Basin Plan Amendment that  
7 would adopt TMDL and implementation plan for pathogens  
8 in, under Item 7, Sonoma Creek watershed and Item 8,  
9 the Napa River watershed. Since they are relatively  
10 similar, I'll be -- we do have a need to make the  
11 distinction in the comments. And there are, indeed,  
12 two separate watersheds. We'll have the parties  
13 commenting relative to each watershed. But nonetheless  
14 I've asked Dyan Whyte to initiate the staff  
15 presentation, and we'll have Peter Krottje and Tina Low  
16 then working specifically on the items to continue with  
17 the staff presentation, as a whole. And then after  
18 that, then we will split the comment -- take comments  
19 separately between the two TMDLs.

20 MR. WALDECK: Could I make a comment?

21  
22 MR. WOLFE: Sure.

23  
24 MR. WALDECK: This was really interesting to look at  
25 these two things, because I didn't realize how far up  
our northern borders of our jurisdiction goes. Because

1 I think it -- if you draw a parallel line across, when  
2 you're in Sonoma County, there's a lot of -- it's kind  
3 of like, this stuff is up here and then the north  
4 region comes down more south of that. I mean, the  
5 north region comes down like somewhere around --

6  
7 MR. WOLFE: Well, the North Coast Regional Board's  
8 boundary is essentially the grade on 101 just north of  
9 Petaluma. So as you top that grade you go down the  
10 hill into Cotati and Rohnert Park. That's all North  
11 Coast, and so that all flows to the Russian River  
12 watershed. That's North Coast. Everything that flows  
13 to Petaluma River and Sonoma Creek watershed. And  
14 again, in the Sonoma Creek watershed, it's basically  
15 right up to the east side of -- the west side drains  
16 towards Russian River, and Oakmont and all those  
17 boundaries -- that one's less subtle because it's  
18 fairly flat through there.

19 In Napa County, the Napa River watershed, as you go  
20 north of Calistoga across 128 you reach a peak, and  
21 then you cross down the back side into the Russian  
22 River watershed. So we do get further north, I think  
23 one of the slides will point that out. But these are  
24 our northern watersheds.

1 CHAIRMAN MULLER: We have the better Appalachians  
2 (phonetic) of the wine world, of our region.

3  
4 MR. WOLFE: Well, you may get some dispute, then. We  
5 don't need to get into that, put that dispute --

6  
7 CHAIRMAN MULLER: Region 2, we have the better water  
8 than all of the rest of the regions in the state. And  
9 we make better wine. Maybe. Dyan, we've got you all  
10 confused here.

11 MS. WHYTE: Good morning, Board Members. My name is  
12 Dyan White and I'm the TMDL Section Leader of the Water  
13 Board and today we'll be presenting two pathogen TMDLs.  
14 But I can't help myself from giving Mr. Waldeck a quick  
15 follow-up from a geologic perspective, just because I  
16 thought you might find this interesting.

17  
18 In geologic time, the Russian River actually drained  
19 into San Francisco Bay through the Napa and Sonoma  
20 valleys, so we have a very different peak here. But  
21 due to volcanic activity -- those are all volcanic  
22 deposits up there -- and seismic uplift, the Russian  
23 River took a shift and then started heading back up  
24 north. So it's kind of an interesting little piece of  
25 information.

1 MR. WOLFE: But that was even before Larry was working  
2 here.

3  
4 MS. BRUCE: But he remembers it from his youth.

5  
6 MS. WHYTE: So in February we public noticed two Basin  
7 Plan Amendment packages that when adopted, will  
8 establish TMDLs and implementation plans to control  
9 pathogen discharges in the Napa River and the Sonoma  
10 Creek watershed, and protect the public from exposure  
11 to water-borne diseases.

12 The basic premise of these TMDLs is that people have to  
13 take responsibility for keeping animal and human waste  
14 out of the waters in which we boat, swim and recreate.  
15 We also need to remember that threats to human health  
16 posed by pathogens are not limited to surface waters.  
17 Pathogens can also seep into ground water, contaminate  
18 local drinking water supplies. And so therefore,  
19 preventative approach is essential for protecting water  
20 quality.

21  
22 The proposed Basin Plan Amendments are similar to the  
23 Tomales Bay Pathogens TMDL you adopted last fall, and  
24 we used the implementation plan for Tomales as a  
25 template. One key difference is that the water quality  
targets for Tomales were more protective, or more

1 restrictive because they were aimed at protecting the  
2 beneficial use associated with shellfish harvesting, in  
3 addition to protecting people who swim in these waters.  
4

5 Since the problems of the two watersheds are very  
6 similar, we've developed these TMDLs on parallel  
7 tracks, and to make efficient use of your time today we  
8 will be combining the staff presentation portions of  
9 both these hearings.

10 For today's hearing I've asked Peter Krottje to review  
11 water quality threats associated with pathogens, and  
12 our efforts in these watersheds to identify sources.  
13 Tina Low will then discuss our proposed water quality  
14 targets and implementation plans. And then I will  
15 conclude the staff presentation with an overview of our  
16 public process, comments received and our preliminary  
17 response to comments.

18  
19 At the end of the presentation, we'd be happy to answer  
20 any general questions you have about the TMDLs, and  
21 then after that I encourage you to invite stakeholders  
22 to come up and specifically comment on Item 7, which is  
23 the Sonoma Creek Pathogen TMDL. We'd be happy to  
24 answer any questions you have on that item, and then  
25 we'll move on to Item 8, which is the Napa River  
Pathogen TMDL.

1 So we can now turn it over to Peter.

2

3 CHAIRMAN MULLER: Yes, sir.

4

5 MR. WALDECK: I was just going to ask a little side  
6 question, but I'll ask it probably -- why is one a  
7 river and why is one a creek? Is that just

8

9 CHAIRMAN MULLER: You're getting too green on us,  
10 Clifford. It's a crick [sic], not a creek.

11

12 MR. WOLFE: I -- we just go with the names. We're not  
13 the final --

14

15 MR. KROTJE: It actually has to do with flood control-  
16 related stuff. I think the distinctions were made  
17 historically, with the Corps of Engineers, actually.

18

19 MR. WOLFE: And there is a Napa Creek that actually  
20 flows from the west into Napa that's distinct from Napa  
21 River. So, again, it's nomenclature.

22

23 MR. KOLB. So the same (inaudible) and that's usually a  
24 different name from a creek.

25

1 MR. WALDECK: So it's a lot like California cities,  
2 where some people like to call themselves towns and  
3 other ones want to call them cities.

4  
5 MR. KROTJE: Well, good morning. I'm Peter Krottje, an  
6 environmental scientist with the TMDL section. I've  
7 been working on the Sonoma Creek and Napa River  
8 watersheds since 2002, and I for one wish they were  
9 both either rivers or creeks, because I had to stumble  
10 over them on --

11 So today, I'll be giving you a little background on  
12 these watersheds, and the work that we've done to  
13 assess the pathogen problem and to identify significant  
14 pathogen sources in these watersheds.

15  
16 So you can see from the map here, the Sonoma River and  
17 the -- the Napa River and Sonoma Creek watersheds are  
18 adjacent to one another on the north edge of San Pablo  
19 Bay. Sonoma Creek to the west is the smaller  
20 watershed, and the larger watershed to the east is --  
21 somewhat larger, is the Napa River watershed. Both of  
22 these are relatively flat valleys flanked by steep  
23 mountains, and both run north to south discharging into  
24 the north end of the San Pablo Bay.

1 The watersheds have also similar land use patterns, and  
2 therefore similar water quality problems. And we find  
3 it very efficient, both due to their proximity and  
4 similar problems to address them concurrently.

5  
6 So for a little bit of a review, and probably a lot of  
7 review for some of you who were here for the Tomales  
8 Bay Pathogen TMDL, what are pathogens? They're  
9 basically any kind of micro-organism that can make you  
10 sick. Water-borne pathogens almost always enter the  
11 water through fecal contamination from either animals  
12 or humans.

13 There are many different types of water-borne  
14 pathogens. Some of the more notorious pathogens are  
15 listed here. Because water-borne pathogens are a very  
16 biologically diverse group, many are impossible to  
17 detect in creeks and for this reason we monitor for  
18 pathogen indicators. Indicators are easily  
19 identifiable bacteria found in the intestines of warm-  
20 blooded animals.

21  
22 Pathogen indicators are signs of fecal contamination  
23 and the potential presence of pathogens in organisms.  
24 Among the commonly used bacteria groups that are  
25 indicators are fecal coliforms, e coli and  
enterococcus. For these TMDLs we are using e coli,

1 which are considered the most appropriate indicator for  
2 fresh waters.

3  
4 We've known for decades that both the Napa River and  
5 the Sonoma Creek have higher pathogen levels than are  
6 considered safe for water contact recreation, which is  
7 a beneficial use designator for both watersheds. Both  
8 watersheds have a number of popular swimming areas, and  
9 really gets popular in the southern portions of both  
10 watersheds.

11 And perhaps more importantly there's an extensive  
12 residential development in both watersheds. As we  
13 know, creeks are magnets for children living nearby,  
14 and we don't want our children risking their health  
15 while they play in these waters. The good news is that  
16 the level of impairment is generally moderate. We  
17 currently see indicator levels from 10 to about 1,000  
18 percent above our water quality objectives, and we only  
19 see this in about a quarter of each watershed.

20  
21 Our efforts to identify specific pathogen sources began  
22 with watershed-wide sampling in both watersheds in 2002  
23 and 2003. We followed up in 2004 and 2005, focusing  
24 sampling around hot spots identified in earlier  
25 sampling. The purpose of hot spot sampling was to  
clarify the locations and nature of these pathogen

1 sources. I'll explore that in the next couple of  
2 slides.

3  
4 So based on our sampling data and other factors such as  
5 land use patterns, soils and topography, we applied a  
6 weight of evidence approach to sources listing. That  
7 is, no single bit of information conclusively proves a  
8 specific source and specific location. The information  
9 taken as a whole provides a very compelling argument  
10 for our.

11 Pathogen indicator levels were consistently high at  
12 several locations in both watersheds. All of these hot  
13 spots -- shown by yellow circles here -- were  
14 associated with either residential development, grazing  
15 lands or confined animal facilities. The hot spots  
16 were most evidence during dry season sampling, because  
17 during wet season sampling, widespread pathogen loading  
18 from municipal runoff tended to obscure these sources.  
19 However, the hot spots were very consistent from year  
20 to year, and this consistency demonstrates that the hot  
21 spots represent real, persistent problems.

22  
23 We sampled in three different state parks and in many  
24 natural areas where human impacts are expected to be  
25 minimal. All were low in pathogens. This indicates  
that wildlife are not a (inaudible) pathogen source in

1 either (inaudible). Hot spots in the Sonoma watershed  
2 include Kentwood, which is the largest community in the  
3 Sonoma Valley that continues to be served by septic  
4 tanks. (inaudible) appears to be a very major source  
5 of nutrients in this watershed. Further south you have  
6 Nathanson Creek and a (inaudible) of the City of  
7 Sonoma. And still further south, Shell Creek, in an  
8 area where cattle grazing is the dominant land use.

9  
10 In the Napa Watershed we have Murphy Creek, which is in  
11 a low-density residential area and septic tanks, with  
12 soils that are especially ill-suited for septic tanks.  
13 We have Browns Valley Creek in a residential area  
14 portion of that (inaudible) sanitary sewer lines and  
15 septic systems. South of our creek is in the  
16 (inaudible) portion of Napa. Sheehy Creek, further  
17 south, is downstream from a fairly large grazing  
18 operation, and this is also a considerable source of  
19 nutrients in this watershed. And lastly, American  
20 Canyon Creek, downstream of small horse stables,  
21 poultry operations and other small (inaudible).

22 To summarize our source assessment work, we've  
23 identified five primary categories of pathogen sources,  
24 municipal runoff is a widespread problem in most urban  
25 areas during flood season, septic systems and sewer  
lines are somewhat more localized. The failure rate

1 for these (inaudible) quite low, because pathogen  
2 levels and raw sewage are very high, it takes only a  
3 few minor problems to impair the entire creek. Grazing  
4 lands, in contrast to the situation in the Tomales Bay  
5 Watershed, are a relatively localized problem. Cattle  
6 (inaudible) densities are generally along these  
7 watersheds, and we recognize many grazing operations in  
8 these watersheds already have sufficient management  
9 practices in place. However, it's apparent that some  
10 problems still remain.

11 Pathogen problems from animal facilities are also  
12 localized, some of them stemming from a limited number  
13 of facilities, mostly horse stables and the like. The  
14 river (inaudible) in the areas of the Napa watershed  
15 and the Sonoma watershed are currently regulated by our  
16 dairy program and do not appear to be a water quality  
17 problem at this time.

18  
19 Another primary pathogen source categories of concern -  
20 - I'll turn it over to Tina, who will describe how our  
21 team plans to address those problems.

22  
23 MS. LOW: Thank you, Peter. Good morning. My name is  
24 Tina Low, and I'm a Water Resources Control Engineer in  
25 the TMDL Section. I'm the Lead Technical Staff for the

1 Sonoma Creek Pathogen TMDL, and today I'll present our  
2 plan to solve the problems that Peter has identified.

3  
4 What you see on the screen here is a shot of Sonoma  
5 Creek at Sugar Loaf State Park, and we're very  
6 fortunate that we get to visit these places during the  
7 course of our work. Our first step in solving the  
8 problem is to establish what pathogen levels are safe  
9 for the most restrictive beneficial use in these  
10 watersheds, which is contact recreational use. We do  
11 this by setting water quality targets.

12 The risk of waterborne illness is measured by the  
13 number of bacteria per volume of water. In other  
14 words, by concentration, but then by mass or the number  
15 alone. Therefore our targets, which are based on  
16 (inaudible) criteria as well as our Basin Plan, are in  
17 terms of bacteria concentration. The targets are an e  
18 coli density on the average below 126, with a 90  
19 percentile below 320, 90 percentile meaning that no  
20 more than 10 percent of samples can exceed this number.

21  
22 In some locations in the hot spots that Peter talked  
23 about, the numbers were as high as 10 times the target.  
24 In addition to numeric targets we had a target of zero  
25 discharge of human waste. This is consistent with our  
Basin Plan's prohibition against discharging any

1 inadequately treated human waste, and recognizes that  
2 human waste poses a greater health risk.

3  
4 With targets established, the next step is to allocate  
5 the acceptable levels of pathogens to each of the  
6 sources that we've identified. You will note that  
7 although municipal waste water treatment plants of  
8 wildlife are not significant sources of concern, they  
9 also receive an allocation. Allocations tell each  
10 source category how much pollutant they can discharge  
11 and achieve a target if all allocations are met by the  
12 sources.

13 Generally, sources of human waste such as faulty septic  
14 systems and sanitary sewer lines have an allocation of  
15 zero, consistent with the target of zero discharge of  
16 human waste. An exception to this is domestic waste  
17 water treatment plant discharges, which have an  
18 allocation equal to its target, because there's  
19 treatment and disinfection of the human waste at that  
20 (inaudible). Municipal runoff and sources of animal  
21 waste such as confined animal facilities, wildlife and  
22 grazing operations also have allocations equal to the  
23 target.

24 To meet the allocation and address the targets, the  
25 TMDL requires responsible parties to undertake measures

1 to reduce discharges of both animal and human waste.  
2 And Dyan pointed out, the basic idea here is that  
3 people have to take responsibility for keeping fecal  
4 waste out of waters where we recreate. The proposed  
5 implementation plan capitalizes on existing efforts,  
6 relying upon regulatory programs that are already in  
7 place.

8  
9 For example, municipal storm water runoff, sanitary  
10 sewer overflows and waste water treatment plants are  
11 already regulated by the Board. The non-point source  
12 program requires the Water Board to regulate all non-  
13 point sources via waste discharging permits, waiver  
14 conditions or prohibitions, and the TMDLs implement the  
15 non-point source program by addressing grazing land  
16 issues and requiring additional measures to address  
17 septic system discharges.

18 And our approach to implementation allows each  
19 responsible party to propose methods and strategies  
20 that will allow them to meet their allocations. We'll  
21 go into this in more detail as we talk about actions to  
22 address human waste discharges.

23  
24 For septic systems, the implementation plan calls for  
25 Napa and Sonoma counties to develop and implement  
prioritized plans for evaluating systems and correcting

1 problems. The counties are already responsible for  
2 permitting and inspecting septic systems. Currently  
3 their programs focus on new or non-standard systems,  
4 and on investigating resident complaints. However, we  
5 believe a significant number of existing leaking septic  
6 systems may be going unnoticed or unaddressed. When we  
7 talk about prioritizing and evaluation of a repair  
8 program, we mean focusing on identifying hot spots,  
9 (inaudible) for systems that are close to water lines,  
10 or other indications that it's a high-risk area.

11 To address sanitary sewer system failures, we refer to  
12 instances where raw sewage is not contained within a  
13 collection system, such as that occurs with leaks,  
14 breaks or flows out of manholes. The plan points to  
15 the Water Board's existing sanitary sewer overflow  
16 program, and this program requires responsible  
17 allegations to develop an inspection and repair program  
18 to address problems.

19  
20 Municipal waste water treatment plants are already  
21 permitted by NPDES permits, and their effluent limits  
22 are well below those targets, so their responsibility  
23 here is to continue to comply.

24 And now onto animal sources. For grazing lands,  
25 confined animal facilities and dairies, the operator's

1 responsibility is to identify and implement measures  
2 that will reduce animal waste runoff. Some examples of  
3 waste-reducing measures include putting in water  
4 troughs so that the cows stay out of creeks, fencing,  
5 providing a vegetative bunker area between pasture land  
6 and creeks, and operating waste ponds correctly. As  
7 was the case in the Tomales Bay pathogen TMDL, grazing  
8 lands are a source category that the state's non-point  
9 source program requires us to regulate, and we're  
10 currently working with stakeholders to develop waste  
11 discharge requirement conditions.

12 Municipal runoff sources also have responsibilities  
13 here. Municipal runoff sources are required to comply  
14 with their existing approved storm water management  
15 plans, and also update those plans as necessary to  
16 include specific measures to reduce pet and human waste  
17 discharges. Such measures may include public education  
18 campaigns, installing more public restrooms and putting  
19 up pick up after your pet signs to remind people to  
20 clean up after their pets. As we see here, this  
21 puppy's (inaudible) because her owner has clean-up  
22 (inaudible) to clean up after her.

23 And we'll be evaluating our programs through monitoring  
24 and adaptive management. As you'll notice in our  
25 proposed Basin Plan Amendment, we propose a water

1 quality monitoring plan that will allow us to track  
2 pathogen levels and trends at several baseline sites.  
3 The monitoring plan will help evaluate how effective  
4 implementation measures are, and which areas need more  
5 effort and attention. As consistent with other TMDLs  
6 you've adopted, our proposed adaptive approach allows  
7 action to take place now, while we continue to gather  
8 information. In this adaptive process we will continue  
9 to review relevant scientific data about pathogens and  
10 assess what actions, whether it's outreach technical  
11 assistance for regulatory oversight are necessary to  
12 achieve our goal in ensuring that Sonoma Creek and the  
13 Napa River are safer to swim in.

14 And now I'll turn it over to Dyan, who will discuss  
15 issues that are important to our stakeholders.

16  
17 MS. WHYTE: Before I complete the Staff's presentation,  
18 I'd like to review our public participation process,  
19 and discuss stakeholder concerns and (inaudible)  
20 recommendations on revisions and response to comments  
21 received.

22  
23 Last year we held a number of stakeholder meetings in  
24 the two watersheds. We conducted a town hall meeting  
25 in Napa, met with the county staff and gave a  
presentation to the County Board of Supervisors. We

1 also conducted the required scoping meetings. In  
2 February, we distributed for public review the proposed  
3 Basin Plan Amendment and staff reports, and in response  
4 we received 10 comment letters, six from Napa and four  
5 for Sonoma. We are now in the process of formally  
6 responding to these letters.

7  
8 Some of the local agencies requested more time to  
9 comment, although we did receive comment letters from  
10 them by the deadline. We encouraged them to come to  
11 the meeting today and express any additional comments  
12 that they may have, and we've also let them know that  
13 we'd be happy to meet with them to further discuss  
14 refining the implementation plan.

15 Napa and Sonoma agencies suggested that additional  
16 studies should be conducted to verify sources.  
17 Specifically, they questioned whether septic tanks and  
18 leaking sewer lines are a problem. However, as Peter  
19 pointed out in his presentation, our data clearly shows  
20 that septic tanks and sewer lines are a problem. In  
21 fact, in summer months when there's no rain or runoff  
22 to dilute these sources, we see the highest  
23 concentration of pathogens at the hot spots (inaudible)  
24 location. And as the summer progresses, the water  
25 quality signal from these areas gets stronger, and this

1 is also the time of year when people are out recreating  
2 in the water.

3  
4 We spent a considerable amount of staff time and  
5 contact resources conducting water quality studies in  
6 these two watersheds, and we certainly understand the  
7 problem well enough to justify the actions required in  
8 the implementation plans.

9  
10 The county septic systems permitting agencies expressed  
11 fiscal concern, both for the homeowners who may be  
12 required to make repairs on their systems, and for the  
13 county to improve their septic tank permitting program.  
14 Part of the problem, as Tina mentioned, is that there's  
15 low or no oversight for existing septic systems. In  
16 their comment letter, Napa County acknowledges that  
17 half of the approximate 9,000 septic tanks in that  
18 watershed are unknown in location and construction.

19 The majority of soils in both of these watersheds are  
20 not well-suited for septic tanks, and therefore some of  
21 these older tanks are prone to failure. You'll notice  
22 in the implementation plans that what we're asking the  
23 county to do over the next two years is to evaluate  
24 their existing programs, and propose plans and  
25 schedules for addressing deficiencies.

1 In regard to homeowners, we'd like to emphasize that no  
2 one, of course, will be asked to upgrade or repair a  
3 septic tank that is not failing. So it's really that  
4 the actions are aimed at identifying failing systems.  
5 As you may recall, with the Tomales Bay watershed, the  
6 Marin County Environmental Health Department and local  
7 stakeholders are setting the example of some creative  
8 ways to address these problems. And we're really  
9 encouraging Napa and Sonoma to do the same.

10 You may have heard it mentioned in the comments about  
11 forthcoming septic tank regulations, AB885 (phonetic),  
12 and we did get some comments requesting us to wait  
13 until these regulations move forward before adopting or  
14 developing these TMDLs. In 2000, the California Water  
15 Code was amended requiring the State Board to develop  
16 statewide regulations for standards, permitting and  
17 operations of septic tanks. And the recently held  
18 statewide scoping meeting we received a wide range of  
19 comments on this.

20  
21 We are involved in the stakeholder process associated  
22 with this, and we're confident that the State Board is  
23 not going to adopt regulations that will be in conflict  
24 with what we're putting forth in these TMDLs. In fact,  
25 a key comment that was expressed at this statewide  
meeting was that state regulations should acknowledge

1 or specifically recognize TMDL efforts, efforts that  
2 are underway and consistent with TMDLs that have been  
3 adopted for pathogens in this watershed.

4  
5 EPA had a number of constructive comments which we will  
6 address in our TMDLs. A key one that I'd like to bring  
7 to your attention is they asked us to revise our  
8 targets and allocations. And let me clarify what they  
9 were getting at here. We have several water quality  
10 bacteria objectives in our Basin Plan, and a statewide  
11 project is underway to revise basin -- bacteria  
12 standards for all the regional boards basin plans at  
13 once. These new standards will be based on recent EPA  
14 guidance and criteria.

15 In our TMDLs we relied on these new numbers, and in  
16 specific, using e coli bacteria, (inaudible) a more  
17 accurate predictor of the presence of pathogens in  
18 human and animal waste. And while EPA does agree with  
19 this approach, they're telling us that we can't ignore  
20 our outdated objectives which are still in our Basin  
21 Plan. A similar issue came up with the San Francisco  
22 Bay Mercury TMDL, as you may recall.

23  
24 So what we're proposing to do is add these outdated  
25 objectives into the TMDL, but add a sunset clause so  
that when the new objectives come into play, the old

1 objectives and associated targets will go away at the  
2 same time. This is consistent with approaches that  
3 have been used throughout the states. We think that  
4 will work.

5  
6 Now, the Napa River, Sierra Club and the Sonoma Ecology  
7 Center all express support for the TMDLs. These groups  
8 confirm that the residents in these watersheds do swim,  
9 fish and boat in these creeks, and they are concerned  
10 about water quality. So we certainly appreciate these  
11 comments, and I think they tell us that we're setting  
12 the right priorities and reinforce the importance of  
13 our work here.

14 So I'll conclude by saying that we're doing our best to  
15 address the concerns of stakeholders and residents in  
16 these watersheds as part of developing these TMDLs.  
17 We've offered to meet with interested parties to  
18 further discuss possible solutions in the next month or  
19 so, and with some minor revisions we believe that these  
20 TMDLs will meet all state and federal requirements.

21  
22 Our plan is to respond to all comments in writing, and  
23 revise the Basin Plan Amendments illustrating changes  
24 made as a result of the comments received. We publicly  
25 noticed an adoption hearing for June and plan to have  
documents ready for review at that meeting. Our

1 overall goal is to set forth a clear and affordable  
2 plan for restoring our (inaudible) uses in the Napa and  
3 Sonoma watersheds, and move on to implementation. And  
4 I think, overall, the good news is that, as Peter  
5 mentioned, the impairment is localized and pathogen  
6 problems can be corrected in a relatively short period  
7 of time. And that if we all work together we can  
8 confidently say that people are safe to recreate in  
9 thee waters.

10 So with that, I'll take a seat at the table and we'll  
11 be happy to take your questions.

12  
13 CHAIRMAN MULLER: Thank you, Dyan. Any comments,  
14 questions? We have a number of cards and so we'll work  
15 our way back through. I guess the best one to go  
16 through is Sonoma first, with Don?

17  
18 MR. WOLFE: Right. Let's make it clear that at this  
19 point, we're separating between Sonoma with this Item  
20 7.

21  
22 CHAIRMAN MULLER: Okay, so we have just one for seven at  
23 this time, Don. And there's another one for seven,  
24 just go ahead. And then, eight, I have the General  
25 Manager for Napa. We have Jill (phonetic) from Napa  
County Environmental Management, and then Sandra from

1 Farm Bureau and Cathy from North Bay Association  
2 (inaudible), and that is the order we'll go.

3  
4 MR. SEYMOUR: Great. Good morning, Mr. Chairman, and  
5 Members of the Board. My name is Don Seymour  
6 (phonetic), and I'm Principal Engineer for the Sonoma  
7 County Water Agency. First of all, I would like to  
8 thank the Regional Board and Staff for taking comments  
9 regarding the proposed Basin Plan Amendment and the  
10 pathogen TMDL. The water agency's (inaudible) in  
11 addition to written comments we provided in our March  
12 29<sup>th</sup> letter.

13 As a stakeholder and consumer in the Sonoma Creek  
14 watershed, as the operator of a Sonoma Valley treatment  
15 plant and collection system, on behalf of the Sonoma  
16 Valley County Sanitation District, and a co-permittee  
17 under the Phase 2 General Permit for Small Municipal  
18 Septic Storm Sewer Systems, the Sonoma County Water  
19 Agency is highly supportive of the measures that will  
20 improve the water quality of the watershed.

21  
22 However, at this time our agencies do not support the  
23 proposed TMDL, and has significant concerns regarding  
24 its development and implementation. The Water Agency  
25 does not believe the essential components of the TMDL  
have been adequately addressed. The study conducted

1 jointly by Regional Board Staff and San Francisco  
2 Estuary Institute and referenced in the staff report  
3 clearly indicates that there are several locations in  
4 the watershed with moderately (inaudible)  
5 concentrations of e coli. However, the (inaudible)  
6 program does not sufficiently define or describe one,  
7 the maximum amount of pathogens as indicated by the  
8 presence of e coli that can be assimilated or tolerated  
9 by the watershed, the sources of e coli, or, three, the  
10 allocation of e coli loading. It appears the  
11 allocation and the numeric targets are the same.

12 The Water Agency believes the study program described  
13 in the staff report needs to be built on in order to  
14 develop a realistic conceptual model regarding how  
15 pathogens enter and move through the watershed.

16 Without an accurate conceptual model, it is unlikely  
17 that the effectiveness of the TMDL can be evaluated or  
18 measured.

19  
20 As an example of the pathogen TMDL that's been  
21 developed through a study program that adequately  
22 describes and defines the watershed, the Water Agency  
23 would like to reference the TMDL that's developed by  
24 the Central Coast Regional Water Quality Control Board  
25 for the San Luis Obispo Creek watershed. Along with  
significant stakeholder reachout, the TMDL was

1 developed using a study program that thoroughly  
2 describes the watershed, both spatially and seasonally.  
3 The study program clearly identified where loading was  
4 occurring and produced a model that predicted how the  
5 loading was assimilated by the system downstream.  
6 The study also utilized microbial source tracking in  
7 order to assess the proportion of pathogen loading  
8 attributable to human activities, versus the proportion  
9 of loading resulting from wildlife in the watershed.

10 As a stakeholder in the watershed, the Water Agency  
11 believes it will be more appropriate at this time to  
12 develop and implement a study program that would  
13 accurately describe pathogen loading and its life cycle  
14 in the watershed, in order to develop a scientifically-  
15 based TMDL that can be implemented and (inaudible)  
16 evaluated through a monitoring program. The Water  
17 Agency would be a willing participant in the  
18 development and implementation of such a study program.  
19 Thank you.

20  
21 CHAIRMAN MULLER: Thank you, Don. Any questions? Now,  
22 we can get you back. Randy, we'll go with you next,  
23 please.

24 MR. LEACH: Good morning. My name's Randy Leach. I'm  
25 the Division Manager for the Well and Septic Program

1 for the County of Sonoma, Permit and Resource  
2 Management Department. Give you a little idea of what  
3 we do. We issue over 1,000 septic permits, many in  
4 Sonoma watershed, many which are non-standard systems  
5 with pretreatment units, disinfection units, nitrate  
6 (inaudible) units. We issue over 2500 renewable  
7 operating permits every year.

8  
9 These operating permits require homeowners to monitor  
10 their systems, to take samples to monitor -- monitoring  
11 levels. I'm a little nervous.

12 CHAIRMAN MULLER: Don't be nervous, please. We're all  
13 trying to get to the right conclusion.

14  
15 MR. LEACH: Anyway, we have a pretty good idea of  
16 what's going on with septic systems in Sonoma County.  
17 We have one of the most advanced programs in the state.  
18 And the Resource Management Department does appreciate  
19 this opportunity to provide the Regional Board with  
20 comments regarding the Basin Plan Amendment. We've  
21 provided a summary listing of key issues that we feel  
22 should be more thoroughly in our written comments  
23 submitted on March 27<sup>th</sup>.

24 We welcome the opportunity to discuss these issues with  
25 the appropriate Board staff prior to consideration of

1 adoption. Ultimately, we feel that the Regional Board  
2 has to address these issues in order to provide the  
3 reviewing public with a complete understanding of what  
4 is being proposed, and to satisfy the requirements of  
5 CEQA.

6  
7 While we believe there's clearly a need to improve  
8 water quality in Sonoma Creek, we also know that  
9 individual property owners and local regulatory  
10 agencies have limited resources to devote to this  
11 effort. Thus, we believe that both public and private  
12 efforts must be focused in areas that will achieve the  
13 greatest result. For this reason, we believe that the  
14 Regional Board should conduct a more frequent analysis  
15 of contamination of Sonoma Creek before asking that the  
16 government and individual homeowners devote financial  
17 resources and staff to what appears to be a very broad  
18 and expensive program.

19 In other words, a more comprehensive investigation and  
20 sampling protocol needs to be done to conclusively  
21 determine that elevated e coli contamination in Sonoma  
22 Creek is a result of septic system discharge or other  
23 human sources, rather than naturally occurring  
24 contamination from wildlife or other sources.  
25

1 We feel that this can be accomplished by using  
2 microbial source testing or genetic fingerprinting to  
3 more conclusively determine the source of the e coli.  
4 The Staff Report mentions that the microbial source  
5 testing was not used due to costs and time. We feel  
6 it's important that it is used, and to illustrate the  
7 importance of identifying the source of e coli, I  
8 obtained a copy of the final interim report from the  
9 Bodega Bay/Campbell Cove Tidal Circulation Study and  
10 Water Testing (inaudible) Project that was completed in  
11 January of 2004.

12 The lead agency for this study was the Sonoma County  
13 Department of Health Services, Division of  
14 Environmental Health, the Agency of the Bodega Marine  
15 Laboratory, the North Coast Regional Board and the  
16 State Department of Parks and Beaches. I'll provide  
17 you with a copy of this study for your consideration.

18  
19 One purpose of the study was to determine the source of  
20 e coli contamination of the tidal beaches in Sonoma  
21 County, and we believe it illustrates the importance of  
22 identifying sources of contamination before time and  
23 effort and expense is incurred in (inaudible) sources  
24 of contamination that may not turn into a problem. The  
25 study identified, through phytotyping, avian and marine

1 animals as the source of e coli bacteria contamination,  
2 and was not of human origin.

3  
4 Again, it is critical that microbial source testing and  
5 a more complete detailed and comprehensive study of the  
6 Sonoma Creek watershed be conducted before you consider  
7 setting a TMDL for pathogens for Sonoma Creek. Sonoma  
8 County remains committed to assisting the Regional  
9 Board in any way we can to establish a science-based  
10 TMDL with goals that are effective, comprehensive and  
11 achievable. And I'll leave my copy of the interim  
12 report with your staff. Thank you.

13 CHAIRMAN MULLER: Thank you, Randy. I just have a quick  
14 observation to make about this wonderful area that we  
15 all live in up there. There's some very, very  
16 expensive homes, naturally, with the wonderful area  
17 there, being built. And there's some of those -- and  
18 remember, this is a land use issue, not a (inaudible),  
19 but I just had to comment that they're building these  
20 seven-figure homes so close to a sewer line but yet are  
21 still being permitted for septic systems. That just,  
22 you know, it's bewildering to me that that's going on  
23 so close to the (inaudible) or whatever. And I just --  
24 I understand it's not our regulation, it's not our  
25 rules.

1 And along that line, as I understand it, that they  
2 don't have enough area for a leach field, that there's  
3 a permitting process up there where you're actually are  
4 mounding and then pumping and recirculating back and  
5 forth the drain field in the back yards of the  
6 properties. Is that kind of a --

7  
8 MR. LEACH: Well, we have several (inaudible) of non-  
9 standard septic systems, and you're referring to a  
10 mound system. And they're an alternative system that  
11 are put (inaudible) to get the separation between  
12 groundwater -- or if you don't have adequate soil  
13 depth, to get treatment of the sewage before it  
14 encounters any type of ground or surface water.

15 CHAIRMAN MULLER: See, our way of thinking of a leach  
16 field is always that the water would go down and it  
17 would be, you know, six, seven feet with the drain rock  
18 and all that. And I'm just trying to kind of set my  
19 mind at ease here with all that.

20  
21 MR. LEACH: There's all sorts of systems. We know now  
22 that there are septic systems and cesspools and  
23 whatever scattered throughout the whole county, and we  
24 don't allow people to remodel their homes on septic  
25 system use, old septic systems, even with their  
(inaudible) we make them upgrade them through our

1 reutilization policy. We require people to put mounds  
2 in with disinfection units, with nitrate removal units,  
3 we maintain the -- at least a 100-foot setback from  
4 streams and -- but there are problems with some of  
5 them. When we find out about them, we correct them.

6  
7 But like I said, you have 2500 removal operating  
8 permits where people are monitoring their systems, and  
9 we're just not really seeing a problem with them, with  
10 the ones that we're monitoring, anyways. And we'll be  
11 happy to provide you with the annual report, which we  
12 do every year and we have been doing for the last 15  
13 years.

14 CHAIRMAN MULLER: Good. Thanks. I think, Kathy, did  
15 you want to speak on Item 7, also? Okay, so Kathy  
16 Hates, Government Affairs Director for the North Bay  
17 Association of Realtors.

18  
19 MS. HAYES: Mr. Chair and Members of the Board, thank  
20 you for the opportunity to comment. This is a new  
21 process for me, and it's something that I probably am  
22 going to get very good at. But this is my first TMDL,  
23 so you know, I feel I'll get better with time.

24 The North Bay Association of Realtors had the pleasure  
25 of working with two watersheds in our territory in

1 Napa, Sonoma, and part of Lake and Mendocino counties.  
2 So you know, trying to follow everything that's going  
3 on in the two watersheds can get a little funky. I'm  
4 here to support the comments of the Water Agency and  
5 the Environmental Health folks from Sonoma County, and  
6 I'm also here to represent a group of individuals that  
7 up to this point have not been in the stakeholder's  
8 process in the Sonoma Creek watershed. And those are  
9 folks that are residential homeowners that have no clue  
10 of what the TMDL is, what it stands for, what it means,  
11 and the impact or proposed impact on their homes.

12 And certainly would encourage, if the Board decides to  
13 move this process forward, to figure out ways to  
14 include them in the process. Because, quite frankly,  
15 there's a lot of fear among homeowners, there's a lot  
16 of fear about regulations from Regional Water Quality  
17 Board, a lot of fear about the regulations ending up  
18 taking their homes away from them. Either because they  
19 don't have the ability to pay for the repairs they're  
20 asking, or because of where their homes were originally  
21 sited along some of these streams and creeks, they have  
22 no ability to meet today's water quality standards and  
23 septic standards. And that you, by virtue of this  
24 TMDL, this regulatory process, are going to be taking  
25 their homes away from them.

1 And there's also the same dialogue and discussion  
2 during the whole process of AB885. These are very,  
3 very real fears and I just need to be here as one  
4 individual, because no one else knows that this is  
5 going on, to acknowledge it and plop it on the table.

6  
7 It is interesting, because I have both Sonoma Creek  
8 watershed and Napa, I have had the pleasure of reading  
9 (phonetic) both TMDLs side by side, and there's a lot  
10 of mays, possibles, could bes, assume that, some  
11 contribution that we don't totally know. And I  
12 appreciate all those kinds of words, but then when it  
13 gets down to the TMDL standard, it's zero for septic  
14 and individual property owners absolutely have no  
15 slack. And I appreciate the reasons why, but that's  
16 the standard. And that in five years, you all will  
17 review whether this standard is appropriate.

18 But in the meantime, the act, to both the county and  
19 individual property owners, may be massive. So, you  
20 know, five years from now you might recalibrate the  
21 standards, but we're going to ask both the county to  
22 put up all kinds of financial resources, and property  
23 owners at some level to -- do some level of testing,  
24 and at most do goodness knows what.

1 Now, looking at kind of the number figures in the  
2 economic section -- and again, because I have the  
3 ability to compare side by side -- the numbers -- you  
4 know, when I look at the numbers for Napa County and  
5 the number of potential homes in (inaudible)  
6 categories, and look at the number of homes in Sonoma  
7 Creek, the jump is not that great between the two of  
8 them. And the jump in the number of homes that  
9 potentially could be included is significant. So I  
10 would encourage Staff to look at that.

11 There also is no doctor (phonetic) associated with  
12 dairies being WDRs, and at the very least there should  
13 be some number figures in them. And again, go back to  
14 the concept -- and it's very quaint, but what's the  
15 ask? What's the ask to the county, in real costs,  
16 because the counties are not going to be bearing those  
17 costs, it's going to be the folks that have to avail  
18 themselves of the service. What's the ask of property  
19 owners, and what are we going to do with property  
20 owners that can't meet the standard? And what  
21 financial resources are in place to both help the  
22 county and help property owners? And if there aren't  
23 financial resources, where do you get them?

24 Now, I know there was mention in the report about the  
25 (inaudible) program, and obviously you have all had

1 experience with going down this road. And so you may  
2 not be as fearful as I might be, and so, you know,  
3 certainly it would be very interesting to learn about  
4 how to (inaudible) some of these hurdles. And I also -  
5 - and maybe it's because of personal experience -- but  
6 at one point in my career, I worked for a legislator,  
7 and I had the experience of homeowners in the  
8 legislator's office in tears over some of the leaking  
9 underground storage tank stuff, because they were going  
10 to lose their home and their property because they  
11 didn't have the ability to meet those demands. And  
12 it's pretty heart wrenching when you've got those folks  
13 in there, in your office.

14 And so I just need to say you need to, of course  
15 address whatever water quality issues are out there,  
16 make sure that the folks that are going to be impacted  
17 are involved in the process, figure out ways to have  
18 all the -- provide the resources, or help to folks that  
19 need it. But make sure that the regulations make  
20 sense. Thank you so much for your time.

21  
22 MR. WALDECK: What legislator?

23  
24 MS. HAYES: I worked for Senator Mike Thompson, before  
25 he became a Congressman.

1 CHAIRMAN MULLER: Thank you. You know, just from my  
2 perspective, and I'm sure there's not one of us up here  
3 that's going to be wanting to take anyone's home or  
4 property away. That's not our goal. I think the TMDL  
5 process, from my perspective, is just the beginning of  
6 -- to see where we can find these problems and work  
7 towards a solution. I always believe in -- and trust  
8 me, I live with regulations like all of us do, every  
9 day. It's just something that we need to have time to  
10 get up to -- to meet these regulations. I don't think  
11 we're going to come in and hit anybody over the head  
12 and kick them out of their house. That's not the goal  
13 of any regulation.

14 But I do appreciate you're being involved and the  
15 realtors being involved, and I don't think we've had  
16 too many realtors speak before this Board before. So I  
17 compliment you on that, and continue to share  
18 information with your constituents, and I know our  
19 staff will be working towards that goal, also.

20  
21 On Item 7, we did not have any more cards; on eight we  
22 have a number of cards.

23 MR. WOLFE: Unless there's some specific questions or  
24 comments from the Board relative to Item 7, I'd  
25

1 recommend moving on to Item 8, and then we can try to  
2 tie it all together.

3  
4 CHAIRMAN MULLER: And there will be no action taken on  
5 these two, so it's just -- we'll move on to eight,  
6 then.

7  
8 MR. WOLF: I'm sorry, my comment's on Item 7, but they  
9 apply to eight as well, so I can hold the comments  
10 until the end.

11 CHAIRMAN MULLER: It's up to. If you're fresh with them  
12 now, you can give them now, or you can give them at the  
13 end. Okay. All right, so we'll just jump over to  
14 eight. And we'll just go to the cards?

15  
16 MR. WOLFE: Yeah, yeah.

17  
18 CHAIRMAN MULLER: Okay. Michael, General Manager for  
19 Napa Sanitation, would you like to come forward? And  
20 then we'll have Jill and Sandra and Kathy, if you need  
21 to say a few more words, you can. We do have to talk  
22 to the state and Rei, to see if we can get these clocks  
23 -- the state's a little behind schedule. I know they've  
24 never been that way with you employees. Sort of like  
25 your pay, they're a little behind, right?

1 MR. WOLFE: Right.

2  
3 CHAIRMAN MULLER: Off the record, please. Go ahead,  
4 please.

5  
6 MR. ABRAMSON: Thank you, Mr. Chairman, Members of the  
7 Board. My name is Michael Abramson, I'm the General  
8 Manager of the Napa Sanitation District. My address is  
9 P.O. Box 2480, Napa, California, 94558. I want to  
10 deviate from my prepared remarks just for a moment to  
11 thank you, Mr. Chairman, for your nice comments about  
12 Napa Valley wine, specifically. So, thank you. I  
13 don't know as much about Sonoma County wine, because I  
14 haven't drank as much of that.

15 CHAIRMAN MULLER: Make sure you state you didn't bring  
16 us any.

17  
18 MR. ABRAMSON: No, sir. No, sir. I'd like thank you  
19 today for the opportunity to speak on the proposed  
20 pathogen TMDL for the Napa River watershed. I'm going  
21 to read from some prepared remarks, just because I also  
22 get a little nervous up here, and I want to be sure I  
23 say these clearly.

24 First, a little about Napa Sanitation District. We  
25 provide waste water collection, treatment, disposal and

1 some significant amounts of water recycling for the  
2 population of the City of Napa and surrounding areas.  
3 And we are actually in the midst of -- a large part of  
4 my time is working now on expanding our recycling  
5 program in the future.

6  
7 As far as the proposed pathogen TMDL, this is a topic  
8 of some great interest to us. We've met with your  
9 staff, attended your meetings, had several discussions  
10 with staff, and we have submitted written comments  
11 which you have. I want to emphasize this point now,  
12 our most significant comment is this comment here: to  
13 the extent that sanitary sewers in the Napa River  
14 watershed are a contributing factor to the pathogens  
15 found in the river and its tributaries, we are  
16 supportive of using the new requirements of the sewer  
17 system management plants, known as SSMPs, as the  
18 vehicle for our participation in this.

19 You'll see in our comment letter we've proposed some  
20 changes to some of the tables, and your staff has  
21 indicated that this seems like a viable approach. And  
22 we're understanding that those changes will be put  
23 forward.

24 We believe that leveraging the SSMP program is an  
25 efficient and effective use of all of our scarce

1 resources of government, and is an example of good  
2 government that you can and should be proud of. So we  
3 thank you in advance for that. Our written comments  
4 for the most part are intended to clarify that intent  
5 of your proposed, staff's proposed amendments to the  
6 Basin Plan, and as necessary to the staff report. We're  
7 looking forward to continuing our discussions with your  
8 staff over the next few months. We'll probably be back  
9 in June at the next public hearing, and with that I  
10 again thank you for your time, and I'm available to  
11 answer any questions or provide further information as  
12 you desire. Thank you.

13 CHAIRMAN MULLER: Thank you. Questions? You're  
14 welcome, and hopefully we won't have to see you again  
15 too soon.

16  
17 MR. ABRAMSON: Hopefully not, sir.

18  
19 CHAIRMAN MULLER: I think this is your first time,  
20 right?

21  
22 MR. ABRAMSON: Yes, I've been with the District for 18  
23 months. So all the heavy lifting was done, I guess,  
24 before I got there, which Bruce well knows.

1 CHAIRMAN MULLER: That word, Napa Sanitation, brings  
2 back memories to this Board, right, in the past?

3  
4 MR. ABRAMSON: Well, let's look forward, then.

5  
6 CHAIRMAN MULLER: Thank you. Okay, Jill, please?

7  
8 MS. PAUL: Good morning, Chair and Board Members. I'm  
9 Jill Paul, I'm the Acting Director for Napa County  
10 (inaudible) Management. Kathy brought up the notion of  
11 fear, and I think at the governmental level we have a  
12 bit of that fear, too. The TMDL was very, very broad.  
13 It talked about the adaptive implementation, but I've  
14 been adaptively implemented on some other programs that  
15 lasted forever, and we've never seen the end of them.  
16 So I'd like to be able to put some kind of -- put my  
17 arms around this a little bit better, to limit the  
18 scope.

19 In Napa we have the luxury that we don't have that many  
20 types have been noted so far. We've got three specific  
21 hot spots, very few septic systems in those areas.  
22 I've done a little research already to see what we  
23 have, and I think that we're going to be able to  
24 eliminate septic systems from the three hot spots that  
25 we've identified for those areas pretty quickly, if we

1 can get some time and human resources to put into them.  
2 So that fear is there.

3  
4 I've got some additional comments to what we proposed  
5 before, and I think that's why our prior letter was so  
6 long and so broad, is because the scope was so broad.  
7 And it really doesn't -- you can't see where the end  
8 is, what the TMDL has now proposed. Our goal is if  
9 there are leaking septic systems, if there are other  
10 sources of pathogens being in the Napa River, we  
11 actively, proactively want to go after those sources  
12 and control those.

13 So I think we have the same goal here, I just don't  
14 feel that some of these sources that have been  
15 indicated are as strong a potential as the TMDL and the  
16 Basin Plan indicate. And I think we can probably use  
17 some best management practices, some similar controls  
18 to really reduce the pathogen levels, or determine that  
19 those are naturally occurring in the Napa areas, too.

20  
21 EPA's letter -- you know, Napa being it's not very  
22 severe and that widespread, and EPA's letter actually  
23 addressed the use of the river, and the river is a  
24 beautiful river but it's not very heavily used,  
25 especially during the cold parts of the year, non-  
rainy, which would be never. And again, we took that

1 broad swipe at first, but in our offer now -- and I  
2 have a letter to give to staff if you'll consider it,  
3 of ways to kind of narrow down the scope of the TMDL  
4 would be anticipated. It's actually (inaudible) the  
5 start of the implementation plan. I feel that we can,  
6 with a little bit of resources and time, identify and  
7 survey the septic systems within 100 feet of any of the  
8 hot spot areas that are within 100 feet of those  
9 rivers, or the tributaries.

10 And, really, because all those three areas have high-  
11 clay soils, unless I'm (inaudible) daylighting out to  
12 the river, it's very unlikely that it's making its way  
13 to the surface (inaudible). So we should be able to  
14 narrow down that -- to maybe 100 different parcels or  
15 so pretty quickly, just by identifying the septic  
16 systems that we know, and can spot where they are, do  
17 some dry-weather creek climbing and look to see if  
18 there are any specific sources that are daylighting  
19 into the creek, too.

20  
21 We, of course, will work with all of our failing septic  
22 system operators and owners and residents inside there,  
23 to identify problems. There's probably also more  
24 (inaudible) about which we can do. We haven't really  
25 identified a program like the Marin Septic Manager, is  
that what it's called? We have a 'Living in the

1 Country' brochure that could be updated and renewed,  
2 and actually take a little more of a proactive approach  
3 to sending out to residents along those areas, and if  
4 we identify any future areas, too, we'd have something  
5 that -- a good tool to hopefully prevent them from  
6 becoming problems, which is also a much easier way to  
7 deal with having to do clean-ups if you can prevent it  
8 in the first place.

9  
10 Napa has a variety of different agencies and nonprofits  
11 and others doing (inaudible) already, and part of the  
12 broad scope that still is a little unsettling is that  
13 we're going to be looking at additional tributaries,  
14 four more each year, and well, what if we find  
15 something there? And so maybe there's a way that we  
16 can focus on these other (inaudible) activities that  
17 are happening out there, and include our -- you know,  
18 enhance the (inaudible) activities by including it with  
19 these other species, type of sampling or other things  
20 that are going on in the river that are -- several of  
21 them are also water quality oriented.

22 So we're offering to (inaudible) the sampling done by  
23 (inaudible) different agencies -- I can think of five  
24 right off the top of my head right now. And try to  
25 coordinate those to look at the future areas. Because  
I think the sooner we can say this isn't part of the

1 problem, the more comfort that we will have at our  
2 level.

3  
4 And I agree that the existing sanitary sewer, municipal  
5 wastewater permits and their discharge conditions,  
6 including the non-point discharge elimination permits,  
7 all are very thorough and this really should be just in  
8 recognizing them as attractive programs, not adding  
9 anything additional onto those programs and resources.  
10 So no additional implementation measures would be  
11 needed if those plans, permits are working  
12 appropriately. If they aren't, then they should be  
13 adjusted, not the TMDL or the Basin Plan.

14 The grazing lands and confined animal spaces is still  
15 go to -- you know, Napa's not noted for its  
16 (inaudible), it's noted for its wine, as we've talked  
17 about already. And we have more recreational grazers  
18 or animal owners. There's even a spot that's mentioned,  
19 one of the newer inns that is paying someone -- there  
20 are kids who do their 4-H and raising animals, so that  
21 they have the view of some animals out in this country.  
22 And so that's what we're looking at in Napa. We aren't  
23 looking at high-level uses out there.

1 And as mentioned in the first letter in March, there's  
2 positive things with having animal grazing that go  
3 beyond water quality.

4  
5 CHAIRMAN MULLER: We'll let Sandra address those.

6  
7 MS. PAUL: Okay. All right.

8  
9 CHAIRMAN MULLER: We need you to conclude, though.

10 MS. PAUL: Okay. So we're hoping that those educational  
11 efforts or implementation of best management plans for  
12 the grazing lands and animal facilities would be an  
13 appropriate balance, or appropriate addition for  
14 implementation. Our main concern is not to have a  
15 (inaudible) that just blooms out and grows forever. We  
16 want to see his problem, we follow it, and get to that  
17 end. So I appreciate your time this morning, and I  
18 will leave my letter up here and hope that you consider  
19 it.

20  
21 CHAIRMAN MULLER: Now, is this letter from the Board of  
22 Supervisors chair?

23  
24 MS. PAUL: This is from the Board of Supervisors chair,  
25 and they send their regards, and it was just a little  
too (inaudible) to come today.

1 CHAIRMAN MULLER: Okay. It's a new letter, so we will  
2 give it to -- Yuri, how do you want to handle this?

3  
4 MS. WON: Because the comment deadline has passed, and  
5 it's the Board's practice not to accept late written  
6 testimony, or late materials -- however, it's within  
7 the Board Chair's discretion to accept it.

8  
9 MR. WOLFE: By and large, though, since we've gotten an  
10 earlier version of the letter -- I see that that  
11 essentially she's read through the points raised in the  
12 letter. So I think it appropriate to --

13 CHAIRMAN MULLER: If it's okay with the Board, then we  
14 can accept it. Is that all right with you, Mr. Wolf?

15  
16 MR. WOLF: Can we read it before we decide to accept it  
17 or not?

18  
19 CHAIRMAN MULLER: Um --

20  
21 MR. WOLF: No, I'm joking.

22  
23 CHAIRMAN MULLER: As you stated, the Executive Officer  
24 said that she just about hit all the points of the  
25 letter. So that just about covers us for our accepting  
it after public comment. I just want to make sure that

1 we are legally in the right and, again, with respect to  
2 elected official (inaudible). Okay, moving on to  
3 Sandra?

4  
5 MS. ELLIS: Thank you, Mr. Chairman and Board Members.  
6 I'm Sandi Ellis, representing the Napa Community Farm  
7 (inaudible), 811 Jefferson Street in Napa, California.  
8 First of all, I want to say that we're very  
9 appreciative to you and your staff for taking on this  
10 issue of addressing pathogens in the Napa River  
11 watershed.

12 As a professional representative of the farming  
13 community, we really respect and need to improve our  
14 water quality, and individually, as a kayaker  
15 frequently on the Napa River watershed, I also  
16 understand that issue.

17  
18 Let me give you a little bit of background about the  
19 activity, the impact of -- these regulations that could  
20 impact us. We are a county of 500,000 acres,  
21 approximately half of those acres are within Region 2  
22 and your jurisdiction. The other half in the eastern  
23 part of the county is within the Central Valley  
24 Regional Board jurisdiction. We are very proud of our  
25 agricultural heritage in Napa, as you know, with our  
world-class winery industry. We have an agricultural

1 preserve and a watershed district that comprises 90  
2 percent of that acreage. And we have various  
3 (inaudible) and rules that protect that agricultural  
4 production and heritage into the future.

5  
6 We're also very proud of our commitment to  
7 sustainability. We have very strict -- probably the  
8 strictest in the nation -- conservation standards on  
9 pollution control measures. They've been in place for  
10 10 years and they work very well for us. We also have  
11 a very strong commitment to sustainability in Napa, and  
12 by sustainability we mean that the policies and our  
13 farming practices are economically robust, they're  
14 environmentally wise and they're socially equitable.  
15 And as we talk about the TMDL I'd like to (inaudible)  
16 regulation and the implementation measures that are  
17 projected on the activity within that sustainability  
18 framework. And each of those legs are the three E's,  
19 whether it's environment, equity or economics, they  
20 stand on its own. But we (inaudible) on the other two.

21 For the last six years, our community -- and I've been  
22 in my job for about five or six years -- we've been  
23 very committed to the sustainable approach, and we have  
24 several very innovative practices including Napa  
25 (inaudible) certification, fish-friendly farming which  
you may or may not be aware of, a code of sustainable

1 non-point practices -- that's a statewide program --  
2 and also a very ardent group of people that lead and  
3 have sustainable (inaudible) that includes education  
4 and outreach.

5  
6 Now, you might recognize that it's all about wine. I'm  
7 here talking about cow patties, but I really know more  
8 about cabernet. In (inaudible) we have a crop value in  
9 Napa of \$360 million, \$2.2 million or one-half of one  
10 percent, is in grazing. One half of one percent. So  
11 when I read the TMDL, my reaction and most other people  
12 in the county's reaction was, 'what grazing.' What are  
13 you identifying as the source assessment here for the  
14 pathogen contribution and pathogen levels?

15 Simply put, I don't believe that we have enough grazing  
16 operation within our county that we're going to -- that  
17 we would target the need to have a grazing  
18 implementation plan and set of standards. And, again,  
19 getting back to that sustainable viewpoint, the staff  
20 report says that the implementation issues that are  
21 identified could cost anywhere from a low of \$60,000 a  
22 year to a high of \$250,000 a year, over 10 years.

23  
24 Now, remember when I said we had \$2.2 million worth of  
25 gross value in our county. More than half of that, I'm  
sure, is in Region 5. So if you look at the cost to

1 those few producers, I would say that's not reasonable  
2 or economically sustainable. And I also have to tell  
3 you that on our few grazing operations, their margin or  
4 profit margin is either nonexistent or extremely slim.  
5 So if you think about putting a 20 percent cost of  
6 implementation on the gross value of our product, it's  
7 not going to work.

8  
9 And the end result may be that (inaudible) these  
10 grazing operations, and what little diversity we have  
11 in Napa County, and whatever little diversity we have  
12 we want to save, and we also want to grow. So keep  
13 that in your mind as you think about this.

14 I had the fortune, I think it was in February in  
15 Sacramento, at a state farm bureau event -- and I got  
16 to meet your new head of the State Water Board, Tam --  
17 I think I'm saying her name right. And Tam was a  
18 breath of fresh air, and she spoke to a large group for  
19 a few minutes. At a reception she talked with her, and  
20 she said, "I know we can't address every single issue  
21 of water quality in the state, and my role as the  
22 leader will be to identify our priorities and  
23 efficiently address those priorities." And I would say  
24 to you that the grazing issue, it doesn't fall into the  
25 realm of these priorities or sustainability  
proficiency.

1 But we do know that there is a need to address some of  
2 those impacts, and we do come to the table with an  
3 offer of how we can help work together, how we can  
4 partner with the Regional Board, how we can partner  
5 with our Natural Resources Conservation Service, our UC  
6 Cooperative Extension advisors, and our Resource  
7 Conservation District at the county. And what we  
8 believe is a very appropriate approach for the grazing  
9 lands and the (inaudible) confined animal is an  
10 education and outreach program.

11 We have, we saw that this would be an issue for our few  
12 producers. And again, when I say few, I can count them  
13 on one hand. And then on both hands I can count the --  
14 we see them as they come in, seasonally. We have two  
15 commercial operations that are literally (inaudible)  
16 Nebraska beef, and they are struggling. They're  
17 struggling, and we want to keep them in business. And  
18 then we have a few people that have 30 head of cattle  
19 or 80 head of cattle. Our tax assessor has 30 head of  
20 cattle on 1300 acres, and the intensity of that grazing  
21 I think also goes back to the impact.

22  
23 So what we come and offer today is to partner with you  
24 as a regional board, and our other NGO partner on a  
25 very broad educational and outreach program, on water  
quality management, on best management practices, and

1 (inaudible) being done and to improve. I keep  
2 identifying one very clear thing on Sheehy Creek that  
3 had a great (inaudible) is very appropriate. But to  
4 put onerous regulations and costly regulations on  
5 everybody else in the county is probably not  
6 appropriate. So look at the site-specific problems and  
7 then develop an education and outreach program, and  
8 continue to monitor. And if we find other site-  
9 specific problems, then it draws back.

10 Having worked with the Central Valley Regional Board on  
11 the (inaudible) I can tell you that if it's not well  
12 thought-out, if it starts -- if the way the program  
13 starts before the conditions are known and the  
14 definitions are set -- and I heard a discussion earlier  
15 about what is the definition -- there is not only a  
16 definition of what's in the (inaudible) report, we  
17 don't have hog farms. We have backyard (inaudible) and  
18 4-H projects. We have people raising six cows, 10  
19 pigs, a small little boutique sheep herd. Put it in  
20 perspective.

21  
22 CHAIRMAN MULLER: We get your point.

23  
24 MS. ELLIS: And that is my conclusion. I definitely  
25 offer to work with you, and I hope that we can develop  
a sustainable program that's really (inaudible) the

1 Water Code Section 13000 says that the regulations have  
2 to be reasonable. And I do have these comments  
3 summarized in a letter, and I don't know if it's  
4 appropriate to hand out at this point. I did submit a  
5 letter back in September, on a project report that I  
6 did not (inaudible) the comment period, written, closed  
7 before that public hearing.

8  
9 CHAIRMAN MULLER: Well, I think you were pretty clear in  
10 your summation. I don't think you need to hand out, I  
11 think we're all right.

12 MS. ELLIS: Thank you very much.

13  
14 CHAIRMAN MULLER: Thank you for the support for  
15 sustainability. And Kathy, if you could offer  
16 something new, I think we could --

17  
18 MS. HAYES: Very quickly, and completely related to  
19 this watershed. I just needed to acknowledge that  
20 there was more community outreach with this particular  
21 TMDL. Although the residential property owner piece, I  
22 didn't see any big outreach to that community, but I  
23 needed to acknowledge that (inaudible) a larger  
24 community outreach.

1 As a non-scientist, in reading the TMDL, I felt like  
2 there were more mays, could, shoulds, mights than even  
3 the Sonoma Creek one. And in some ways, as related to  
4 septic, there were times I felt like this is a process  
5 looking for a problem. So I just needed to put that  
6 out there.

7  
8 Again, I'm representing the realtors association, and  
9 we, too, offer our support in helping to provide  
10 opportunities for outreach to the community. It's  
11 important for homeowners to understand, whether it's a  
12 septic system or whether it's a sewer lateral, that  
13 they have some responsibility to upkeep it and to look  
14 at it and make sure that it's working appropriately,  
15 and we're always looking for ways to help communities.  
16 Thank you.

17 CHAIRMAN MULLER: Thank you. That concludes the number  
18 of cards that I have here.

19  
20 MR. WOLF: I had a question for staff. The question  
21 for staff is where do you envision measurement and  
22 compliance with the (inaudible) application in  
23 (inaudible)? So, for example, when (inaudible) system,  
24 zero e coli density, what are we (inaudible) measuring?

25 MS. WHYTE: For the --

1 MR. WOLF: Well, for example, for an on-site sewage  
2 disposal system, it has an e coli allocation of zero.  
3 That's zero where, at the property line (inaudible)  
4 surface water?

5  
6 MS. WHYTE: Zero relates to the no discharge of human  
7 waste, and we can determine compliance within that  
8 allocation based on the operation of the system itself,  
9 in addition to monitoring down to (inaudible) water  
10 body.

11 MR. WOLF: So if you see visual -- the visual  
12 discharge, you can see the water flowing out  
13 (inaudible), and that's obviously a violation. But in  
14 wet weather or after a spring storm or something that  
15 (inaudible) and you find violations (inaudible) nearby,  
16 how do you know which property it came from? Maybe it  
17 came from upstream.

18  
19 MS. WHYTE: I think that's when we work with the county  
20 on taking a look at the systems themselves that are  
21 upstream and downstream of that location. Look at the  
22 construction. There are tests that can be done on the  
23 individual systems to see how old they are, whether  
24 they're functioning, what kind of lines (inaudible),  
25 depth to ground water, depth to bedrock, soil  
permeability. And that's when we talk about the weight

1 of evidence approach, to try to narrow down and focus  
2 on where exactly is the problem.

3  
4 MR. WOLF: Okay. I don't understand, but I -- and I  
5 understand better the fears that would be expressed by  
6 some people. You know, I think the fear is perhaps  
7 larger than it needs to be, but on the other hand there  
8 certainly is a real basis for the fear because it's not  
9 clear how compliance will be measured.

10 Now, the plan doesn't have to spell all that out.  
11 Because compliance will really be determined under  
12 plans that are submitted later, et cetera, conditions  
13 of waiver and all those things. But by the time we get  
14 there we have to spell all those things out, or no one  
15 really knows what it means to be compliant. So I just  
16 wanted to raise that issue in the beginning. But I  
17 think that where the rubber meets the road is how will  
18 we determine compliance, because that's what drives  
19 people's concerns as to spending, et cetera.

20  
21 And then I had a couple other general comments. One is  
22 with regard to the context towards this TMDL.

23 Actually, let me go back. On the pesticide TMDL I was  
24 looking for five things. I got two and a half of them  
25 then, and another one now -- and I want to congratulate  
you and thank you for that half of one now, which is

1 that these TMDLs have subheadings, they're templated,  
2 in my opinion. There's a structure to them, and it's  
3 very helpful to me. I think it was Sunday night that I  
4 was reading them, and reading them and watching TV, and  
5 I could actually figure out what was going on. And I  
6 remembered, 'oh yeah, it was in some heading section.'  
7 And so template is good, the whole thing.

8  
9 That leaves me with one and a half to go. The half is  
10 the context. For example, pesticides, we were told  
11 that 70 percent of (inaudible) is pesticide-related,  
12 and my concern there was, okay, if we solve the  
13 pesticide problem, maybe we still have a problem,  
14 because (inaudible) 130 percent is (inaudible) context.  
15 But here, the context I'm looking for are the other  
16 impairments in the water shed. So I know we've got  
17 nutrients and we've got sediments. I think for both of  
18 them, it would be helpful in the staff report, maybe  
19 next month, to explain that to us. So if the question  
20 comes up about ranchlings in -- or maybe pathogens from  
21 them aren't a problem, but maybe sediments are, and  
22 therefore including them in (inaudible) because the  
23 same measures that control pathogens will control  
24 sediments.

25 And so by breaking it up in this way we sort of -- we  
lose that context (inaudible) to explain why we're

1 doing something. So I need that context, and that's  
2 the half and I think you can give me that next month.  
3 It won't be hard.

4  
5 And the last item is this one about some of the  
6 strategic adjustments over time. One of the big  
7 strategic decisions -- I think we're going to hear from  
8 all the dischargers that -- all the stakeholders that  
9 it's not clear how we're going to comply with this. And  
10 they have raised concerns and so forth. And in  
11 particular they've raised the issue of watershed  
12 (inaudible), and how do we understand how a watershed -  
13 how we prioritize (inaudible) watershed, maybe there's  
14 a certain cost of that area that should be addressed  
15 first. Maybe certain types of land use issues are a  
16 priority, at least for the first five years.

17 And this sort of strategic unfolding isn't addressed in  
18 the TMDL. I think we'll do it in that number section  
19 that talks about alternatives to the property by  
20 property regulatory approach. Because this approach is  
21 (inaudible) property by property approach. Every  
22 property owner is responsible, whatever common land use  
23 they have (inaudible). But still, every property owner  
24 is responsible for giving something (inaudible)  
25 property. And no place in here does it say if a bunch  
of property owners get together and prioritize for

1 their whole watershed or something, that they can do  
2 that. They can (inaudible) prioritize investments, and  
3 they can get preferential treatment when it comes down  
4 to enforcement (inaudible). And this kind of watershed  
5 approach has been encouraged in the past.

6  
7 In the Central Valley (inaudible) they've got actually  
8 a two-tiered system, so if you join the watershed group  
9 you're subject to essentially different regulations  
10 than if you go it alone. I think we ought to open up  
11 that door, and so that in those places where people  
12 say, you know, we want to (inaudible), we want to work  
13 with our neighbors or the county, or the water board  
14 agency, or whatever -- and have an idea about how to do  
15 that. They could do that, and it would be consistent  
16 with TMDL, but we would open a pathway for them to  
17 succeed along those lines. And for us to not come down  
18 on individual property owners who maybe can't comply or  
19 don't comply, so long as bigger problems are being  
20 solved. I think we need to open that up strategically.

21 And (inaudible) be another section of the TMDL,  
22 something about watershed, under watershed approach,  
23 watershed compliance, I don't know what. It would be a  
24 soft section, if we just say if people do (inaudible)  
25 along the following lines, we would be prepared to

1 consider this and that. Just opening that door, as a  
2 planning guide.

3  
4 And then as a last comment, just to the audience, I  
5 think that a number of comments were quite valid, but  
6 I'm not sure you give yourself enough credit or give  
7 the documents enough credit for the power they give  
8 you. So, for example, with respect to septic systems,  
9 you know, it was a year and a half to go through these,  
10 for each of the counties to come forward with a plan  
11 for how you're going to test and verify your septic  
12 systems (inaudible). And then there's three years  
13 after that before the first progress report is due.

14 So you're being given four and a half years, basically,  
15 to go out there and see if there is or isn't a problem.  
16 And if you're sure there isn't a problem in four and a  
17 half years, you can document that and you can be done.  
18 And you know, it's not (inaudible) report. So, and I  
19 think that's true of most of these requirements,  
20 there's significant time (inaudible) and I think the  
21 ranch lands planning requirement is 2010, the year  
22 2010, so that's four and a half years.

23  
24 So there's a lot of time given in here, and a lot of  
25 authority given to the parties in the watershed to try  
to figure this out yourself and report back to us. So

1 I think if we can address a revision for next month,  
2 some of these issues about enforcement and the fear  
3 around enforcement, I don't think it's nearly as bad as  
4 (inaudible) today.

5  
6 CHAIRMAN MULLER: Very good. Anyone else?

7  
8 MR. WALDECK: Yes. I would, I liked the planning  
9 document. It's comprehensive and I think what staff  
10 should be doing is addressing the concerns, because I  
11 think it's a communication issue with the differences  
12 that come across there. And I would encourage the  
13 board and the staff to not relax any of the  
14 requirements come forward. And speaking to the farm  
15 side of things, hearing people that have a few sheep, a  
16 few cows in their backyard, that concerns me a lot more  
17 than a large ranch. Because the same way we all pick  
18 up after our dogs there, people with a few head in  
19 their backyard, they don't have poop bags for cows and  
20 things like that. So I would want extra strong  
21 regulations on people that do that, because it's -- you  
22 know, it could add quite a bit, and if it turns into  
23 the cool thing to have, you know, take some of your  
24 vineyard land and raise llamas on it, you know, I want  
25 to have the regulations that are in place to protect  
the watershed.

1 CHAIRMAN MULLER: Okay, do you have any comments, Bruce,  
2 to bring this to a conclusion here? Again, this will  
3 be brought back to us, and I think there's been a few  
4 new observations brought forward and I'd like to get --  
5 we and staff consider them and look at them closely  
6 with more and more of the stakeholders. You know,  
7 again, I don't think this is something we're going to  
8 run down everyone's throat, we want to just get going  
9 off of this so we can do the right thing the first  
10 time.

11 MR. WOLFE: Right. I think, in fact, that's the whole  
12 goal of having these hearings, is to make sure that  
13 even though we've got a number of written comments,  
14 that we're broadening as much as possible to get  
15 comments from the stakeholders. And we do fully intend  
16 to go back and review all comments, not only the  
17 written ones but the ones we received today. But  
18 everything we've heard today from both the public, but  
19 also from you on the board, we'll go through and see  
20 how we can improve this, because in our mind the real  
21 need is the implementation. And getting clarity, as  
22 Gary said, making sure that it's clear what the  
23 expectations are, so to move forward.

24 I think many of the comment letters focus on the common  
25 desire to ultimately have both these creeks and rivers

1 attaining water quality standards but faster, so they  
2 can come off the impaired water quality list. That's  
3 our real goal here, as one of those who grew up playing  
4 in the summer in the Napa River, I know that there is  
5 that need to protect the river. And so we want to work  
6 with the stakeholders. Both these watersheds do have  
7 very active stakeholder groups and we want to work with  
8 them, to ensure that we're getting the appropriate  
9 implementation.

10 CHAIRMAN MULLER: Right. And I think anyone that's ever  
11 lived on a septic system, trust me, when there's a  
12 failure you're the first ones to know it in your house.  
13 It's just something that we live with, and so I think  
14 we're aware of that. That we're all contributing to  
15 these issues and I think the grazing land comments were  
16 hopefully well-taken, that -- I do that sometimes as a  
17 visual thing, too, when we're looking at communities  
18 and grazing land TMDLs in the future. I mean, they're  
19 not only serving for fire protection, but they're a  
20 visual thing, too. It's an open space issue, it's a  
21 growth issue.

22  
23 You know, do we want a few cows on the hill or in the  
24 back yard, or do we want more houses? I'd prefer to  
25 have a few cows out there. So that's just my  
perspective.

1 So I think we can bring this to a conclusion. We have  
2 some --

3  
4 MR. WOLFE: Right. Just as a final comment, we  
5 recognize we have a lot of work to do, but our goal is  
6 to come back in June. And I do appreciate Gary's  
7 comment about how can we make sure we tie this together  
8 with some of the other drivers in these watersheds.  
9 Because we do have TMDLs for nutrients and sediment in  
10 both these watersheds that we need to address. And I  
11 think we do want to make sure that we're clear on --  
12 that there are opportunities to -- for similar measures  
13 for all three TMDLs. We're not trying to, you know,  
14 reinvent the wheel for each TMDL. So we'll work on  
15 making that clear, and plan to come back to you.

16 CHAIRMAN MULLER: And I appreciate Napa and Sonoma  
17 coming down, and we have to look closely at -- those  
18 are districts that are serving a lot of people up  
19 there, and doing a fine job, I'm sure. So we have to  
20 make sure that we include that on this, and they're  
21 very close to us. So I think at this time we're going  
22 to have to clear the room. We're going into closed  
23 session.

24 [Whereupon, testimony was completed for Items 7 and 8.]  
25